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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,240	10/19/2001	Jon C. Gehrke	459799-1	7876

7590

08/05/2003

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EXAMINER

PHAM, HUONG Q

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

Office Action Summary

Application No.

10/038,240

Applicant(s)

GEHRKE, JON C.

Examiner

Huong Q. Pham

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3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-29 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7-10 and 14-19 is/are rejected.
- 7) ☒ Claim(s) 4, 6 and 11- 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Specification

The disclosure is objected to because of the following reasons: The submitted drawings do not show the mention Figure 5 (on page 6 of specification), and there is no brief discussion of Figures 5A, 5B, 5C.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 7-10, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haskell in view of Molina and Price, or Haskell in view of Molina and Marlow et al. As for claim 1, Haskell shows every claimed feature of claim 1 including a support assembly 2, a connector 1, a first base 4, 5, except for a second base. Molina teaches or suggest a limb holder attached to the side of a bed. Price teaches a second base 40,42, 41 adapted to be support between opposed surfaces . Marlow et al teaches or suggest a support device with a base adapted to be support between opposed surfaces. In view of the teachings of Molina, Marlow et al and Price, it would have been obvious to an ordinary skill in the art at the time the invention was made to provide the device of Haskell with a second base adapted to be support between opposing

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surfaces. The addition of a well-known structure such as the recited additional second base adapted for inserting between opposed surfaces is only a matter of obvious engineering design choice, and provides no unexpected result, and therefore is not patentable over prior art. As for claim 2, note the weight portion 5 and the first base attachment member 4 of Haskell. As for claims 3 and 5, note the base of Marlow et al or Price. Note that the base of Price or Marlow et al is a "horizontal frame of a generally planar shape". As for claims 7 and 8, note the clamping device 29 in Figure 1 of Price. The provision of clamping device for connecting tubular members is well known in the art and in many other arts, and therefore is not patentable over prior art. As for claims 9, 18, 19, note that claims 9, 18, 19 are only a functional statements without further limitation of structure. As for claim 10, note that in Figures 3, 4 of Price, member 23 appears to be hollowed. Note that the provision of hollow tubular member to reduce the weight of the member, or to provide telescoping function of one tubular member relative to another tubular member is well known in the art and in ^{many} ~~any~~ other arts, and is only a matter of obvious engineering design choice, and therefore is not patentable over prior art.

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haskell in view of Molina and Price, or Haskell in view of Molina and Marlow et al. as applied to claims 1-3, 5, 7-10, 18, and 19 above, and further in view of Blatt. As for claim 14, while Haskell does not teach an L shaped envelope for supporting an arm, Blatt teaches the recited structure of claims 14. In view of the teaching of Blatt, it would

have been obvious to an ordinary skill in the art at the time the invention was made to replace the sling of the device of Haskell with the device of Blatt for supporting a limb of a person. Note that Molina teaches that the hand protrudes from a limb support means. In view of the teaching of Molina, it would have been obvious to an ordinary skill in the art at the time the invention was made to make modify the device of Blatt so that a hand can be protruded from the envelope. As for claim 15, note Figure 6 of Blatt. As for claim 16, note Figure 2 of Blatt. As for claim 17, note Figures 1 and 3 of Blatt.

Allowable Subject Matter

Claims 4, 6, 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20-29 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (703) 305-5129. The examiner can normally be reached on 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (703) 308 - 2698. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.



**NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**

July 25, 2003